

**Chapter 40E-400, F.A.C.
No Notice and Noticed General
Environmental Resource Permits**

**40E-400,
No Notice, Noticed**

Chapter 40E-400 No Notice and Noticed General Environmental Resource Permits

[Note: The text on this page and the next provides a brief overview of the provisions of Chapter 40E-400, Florida Administrative Code (F.A.C.). The overview text is intended only to provide a basic understanding of the Chapter, and should not be used in place of the duly-adopted rule language or in a manner which is inconsistent with Chapter 40E-400, F.A.C.]

This Chapter sets forth the requirements for qualification by a project for a No Notice General Environmental Resource Permit and for a Noticed General Environmental Resource Permit.

No Notice General Environmental Resource Permits

A project must meet the specific criteria set forth in either Section 40E-400.315 or Section 40E-400.316 to qualify for a No Notice General Environmental Resource Permit. No permit application or other documents or fees are required to be submitted. A project which meets the specified criteria is bound by the conditions set forth in Section 40E-400.215, which is enforceable under Part IV of Chapter 373, F.S. The following types of projects, systems, or activities may qualify for a No Notice General Environmental Resource Permit under this Rule Chapter:

1. All works entirely in uplands which serve projects with less than ten acres total land area and with less than two acres impervious surface, and which will not either be conducted in or impact wetlands or other surface waters on- or off-site, and which meet other criteria listed in Section 40E-400.315, are permitted by this rule, subject to conditions.
2. All works entirely in uplands for road grading which involve no change in road elevation and resurfacing of existing roads, and which do not interrupt or impound the flow of surface waters into wetlands, are permitted by this rule, subject to conditions.
3. All works within Dade County which have been approved by the Dade County Department of Environmental Resource Management, which serve projects with less than 40 acres total land area with a positive storm drainage outfall, or which serve projects with less than 320 acres total land area and less than 160 acres of impervious area with no positive storm drainage discharge outfall, are permitted by this rule, subject to conditions.
4. All works within Palm Beach County which serve projects with less than 40 acres total land area and have been approved by Palm Beach County, are permitted by this rule, subject to conditions. (See also Chapter 40E-41.)
5. All works within Collier County which serve projects with less than 40 acres total land area and which have been approved by Collier County, are permitted by this rule, subject to conditions.

Noticed General Environmental Resource Permits

The activities which may qualify for a Noticed General Environmental Resource Permit are listed in Subpart C of this Rule Chapter.

To apply for a noticed general permit under this rule, the applicant must submit one of the following three properly completed forms, any corresponding required supporting items, and the appropriate fee:

1. For activities within the District which serve only minor silvicultural surface water management systems (see further Section 40E-400.500): submit Notice of Intent to Construct a Minor Silvicultural System, Form 0974. These activities are the only ones which may commence as soon as the complete information has been either received by the District or properly mailed to the District. The proposed activities must qualify for the general permit and are subject to conditions.
2. For all other qualifying activities within the District: submit Notice of Intent to Use a Noticed General Environmental Resource Permit, Form 0980.
3. Alternatively, for all those same other qualifying activities within the District: applicants *may* submit Joint Application for Environmental Resource Permit/Authorization to Use State Owned Submerged Lands/Federal Dredge and Fill Permit, Form 0971.

Except as noted in Item 1 above, upon receipt of the required items, the District has 30 days to determine if the proposed activities qualify for a noticed general permit. If the District does not notify the applicant by mail within 30 days of receipt of the original complete submittal that the activities do not qualify, the applicant may conduct the proposed activities, subject to conditions. One exception to this is described in Section 40E-400.475, which applies to certain single family residences and other minor activities. For activities which meet the qualifications in this Section, the District will notify all applicants in writing within the 30-day period whether the proposed activity meets the criteria; the proposed activity may not commence until such written notification is provided.

During the 30-day period, if the District determines that the proposed activities do not qualify for a noticed general permit, and so notifies the applicant, the activities shall not be conducted until the proper authorizations (that is, an individual or a standard general environmental resource permit) have been obtained.

Rules of the South Florida Water Management District
CHAPTER 40E-400
NO NOTICE AND NOTICED GENERAL
ENVIRONMENTAL RESOURCE PERMITS

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PART I GENERAL PROVISIONS

40E-400.010 Review of No Notice and Noticed General Environmental Resource Permit Applications. No Notice and Noticed General Environmental Resource permit applications are processed pursuant to the provisions of Section 120.60, F.S., Part VI of Chapter 40E-1, F.A.C., and Chapter 28-107, F.A.C.

Specific Authority 120.54(5), 120.60 F.S. Law Implemented 120.54(5), 120.60 F.S. History—New 7-1-98.

40E-400.021 Definitions. The definitions set forth in section 40E-4.021, F.A.C., shall apply to this chapter. Additionally, as used in this chapter:

- (1) "Canal" means a trench, the bottom of which is normally covered by water, with the upper edges of its two sides normally above water.
- (2) "Channel" means a trench, the bottom of which is normally covered entirely by water, with the upper edges of one or both of its sides normally below water.
- (3) "Coral" means living stony or soft corals.
- (4) "Drainage ditch" or "irrigation ditch" means a man-made trench which is dug for the purpose of draining water from the land or for transporting water for use on the land and which is not built for navigational purposes.
- (5) "Forested wetlands" means those wetlands where the canopy coverage by trees with a diameter at breast height of greater than 4 inches is greater than 10 percent, as well as

those areas required to be planted with tree species to establish or reestablish forested wetlands pursuant to a permit issued or enforcement action taken, under rules adopted under Part IV of Chapter 373, F.S., or Sections 403.91-403.929, F.S. (1984 Supp.) as amended, and those areas where the canopy has been temporarily removed but are expected to revegetate to a forested wetland if use of the area would remain unchanged.

(6) "Herbaceous wetlands" means those wetlands dominated by non-woody vegetation that have less than a 10 percent canopy coverage of trees with a diameter at breast height of greater than 4 inches.

(7) "Insect control impoundment dikes" means artificial structures, including earthen berms, constructed and used to impound wetlands or other surface waters for the purpose of insect control.

(8) "Materials" means matter of any kind, such as sand, clay, silt, rock, dredged material, construction debris, solid waste, pilings or other structures, ash, and residue from industrial and domestic processes. The term shall not include the temporary use and placement of lobster pots, crab traps, or similar devices or the placement oyster cultch pursuant to section 370.16, F.S., or Rule 16B-5, F.A.C.

(9) "Submerged grassbeds" means any native, herbaceous, submerged vascular plant community that is growing on the bottoms of surface waters waterward of the mean high water line or ordinary high water line.

(10) "Swale" means a man-made trench which:

(a) has a top width-to-depth ratio of the cross-section equal to or greater than 6:1, or side slopes equal to or greater than 3 feet horizontal to 1 foot vertical;

(b) contains contiguous areas of standing or flowing water only following a rainfall event;

(c) is planted with or has stabilized vegetation suitable for soil stabilization, stormwater treatment, and nutrient uptake; and

(d) is designed to take into account the soil erodibility, soil percolation, slope, slope length, and drainage area so as to prevent erosion and reduce pollutant concentration of any discharge.

Specific Authority 373.044, 373.113, 373.118, F.S. Law Implemented 373.118, 373.413, 373.416, 373.426, F.S.
History--New 10-3-95.

PART II GENERAL ENVIRONMENTAL RESOURCE PERMITS

Subpart A: Scope of Part II

40E-400.201 Policy and Purpose. The purpose of Part II of this chapter is to provide general environmental resource permits for those activities which have been determined to have minimal adverse impacts to the water resources of the district, both individually and cumulatively. Mitigation is neither necessary nor required for activities that qualify for no notice or noticed general permits. Persons wishing to use one or more of the noticed general permits in this chapter shall be subject to the notice provisions of Section 40E-400.211, F.A.C., before any activity is conducted as authorized herein. The general conditions provided pursuant to section

40E-400.215, F.A.C., shall apply to all of the no notice and noticed general permits in this chapter. Strict compliance with all of the terms, conditions, requirements, limitations and restrictions applicable to a no notice or noticed general permit under this Chapter is required to qualify for such a permit.

Specific Authority 373.044, 373.113, 373.118, F.S. Law Implemented 373.118, 373.413, 373.416, 373.426, F.S.
History--New 10-3-95.

40E-400.211 Processing Procedures for Noticed General Permits.

(1) A noticed general permit authorizes the construction, operation, maintenance, alteration, abandonment, or removal of certain minor surface water management systems as set forth in this chapter, after notice is provided to the District. Whenever a noticed general permit specifies procedures different from the procedures in this section, the procedures specified in the noticed general permit will govern.

(2) Any person wishing to construct, operate, maintain, alter, abandon, or remove a surface water management system pursuant to a noticed general permit set forth in this chapter shall provide notice to the District by submitting a complete Notice of Intent to Use a Noticed General Environmental Resource Permit, Form No. 0980, including the appropriate application fee required in section 40E-1.607, F.A.C., to the District at least 30 days prior to undertaking construction, operation, maintenance, alteration, abandonment, or removal of the system. For the purposes of this subsection, the application form is only considered submitted when it is actually received by the District.

(3) If the District determines that the system does not qualify for a noticed general permit, the District shall so notify the applicant by mailing a notification within 30 days of receiving Form No. 0980. For the purposes of this subsection, District mailing of notification shall be deemed to occur when the notice is properly addressed, stamped, and deposited in the United States mail, and the postmark date shall be the date of mailing. When the District notifies the applicant that the system does not qualify for a noticed general permit due to an error or omission in the original notice to the District, the applicant shall have 60 days from the date of the notification to amend the notice to use the general permit and submit additional information to correct such error or omission. If the applicant amends the notice to use a noticed general permit and submits additional information correcting the error or omission within the 60 day time limit, no additional application fee will be required for the noticed general permit. If the District does not mail the notice informing the applicant that the system does not qualify for a noticed general permit within 30 days of receipt of the original notice to use the general permit, or receipt of amended notice to use the general permit, the applicant may conduct the activity authorized by the noticed general permit, except as otherwise provided in Rules 40E-400.475 and 40E-400.500, F.A.C.

(4) If the District notifies an applicant that the system for which a noticed general permit is sought does not qualify for the noticed general permit, the applicant may apply for a standard general or individual permit. The application fee for the noticed general permit shall be applied to the application fee for a standard general or individual permit if the applicant applies for such a permit within 60 days of notification by the District.

(5) All construction, operation, maintenance, alteration, abandonment, or removal of any system pursuant to a noticed general permit must comply with the provisions of that general permit.

(6) For systems which qualify for a noticed general permit, the District will not publish, or require the applicant to publish, newspaper notice of the notice submitted to qualify for the permit. However, persons qualifying for a noticed general permit may publish, in a newspaper of general circulation in the affected area, a notice of intent to use a noticed general permit.

(7) A noticed general permit shall also constitute certification of compliance with state water quality standards where necessary pursuant to Section 401, Public Law 92-500, 33 USC Section 1341, for activities that qualify for the noticed general permit and that are performed in accordance with the conditions of the noticed general permit.

(8) For projects located in or seaward of coastal counties, and which have regulated activities in, on, or over wetlands or other surface waters, a noticed general permit shall constitute certification of consistency with the Florida Coastal Management Plan, as provided in Section 307 of the Coastal Zone Management Act and 15 CFR 930, Subpart D, for activities that qualify for the noticed general permit and are conducted in accordance with the conditions of the noticed general permit.

(9) If the Notice of Intent involves activities located in, on or over wetlands or other surface waters, as delineated pursuant to the methodology as ratified in Section 373.4211, F.S., the District shall forward a copy to the appropriate office of the United States Army Corps of Engineers (Corps), unless specifically authorized by the Corps to do otherwise.

(10) At the time that the District has received the notice of intent, it will provide public notice that the notice of intent has been filed. Such public notice shall be sent by regular mail to those people who have previously filed a written request for notification of pending applications within the affected area. The notice of intent for a noticed general permit shall be posted in the District Service Center responsible for reviewing the notice of intent.

Specific Authority 373.044, 373.113, 373.118, F.S. Law Implemented 373.109, 373.118, 373.413, 373.416, 373.426, F.S. History--New 10-3-95, Amended 7-1-98.

40E-400.215 General Conditions for All No Notice and Noticed General Permits.

(1) The terms, conditions, requirements, limitations, and restrictions set forth in this section are general permit conditions shall be applicable to, and are binding upon the permittee for all no notice and noticed general permits in this chapter. These conditions are enforceable under part IV of Chapter 373, F.S.

(2) The general permit is valid only for the specific activity indicated. Any deviation from the specified activity and the conditions for undertaking that activity shall constitute a violation of the permit. A violation of the permit is a violation of part IV of Chapter 373, F.S., and may result in suspension or revocation of the permittee's right to conduct such activity under the general permit. The District may begin legal proceedings seeking penalties or other remedies as provided by law for any violation of these conditions.

(3) This general permit does not eliminate the necessity to obtain any required federal, state, local and special district authorizations prior to the start of any construction, alteration, operation, maintenance, removal or abandonment authorized by this permit. This general permit

does not convey to the permittee or create in the permittee any property right, or any interest in real property, nor does it authorize any entrance upon or activities on property which is not owned or controlled by the permittee, or convey any rights or privileges other than those specified in the general permit and this chapter.

(4) This general permit does not relieve the permittee from liability and penalties when the permitted activity causes harm or injury to: human health or welfare; animal, plant or aquatic life; or property. It does not allow the permittee to cause pollution in contravention of Florida Statutes and District rules.

(5) The permittee is hereby advised that Section 253.77, F.S., states that a person may not commence any excavation, construction, or other activity involving the use of sovereign or other lands of the state, the title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund without obtaining the required lease, license, easement, or other form of consent authorizing the proposed use. Therefore, the permittee is responsible for obtaining any necessary authorizations from the Board of Trustees prior to commencing activity on sovereignty lands or other state-owned lands.

(6) The general permit may be modified, suspended or revoked in accordance with Chapter 120, and Section 373.429, F.S.

(7) This permit shall not be transferred to a third party except pursuant to section 40E-4.351, F.A.C. The permittee transferring the general permit shall remain liable for any corrective actions that may be required as a result of any permit violations prior to sale, conveyance, or other transfer of ownership or control of the permitted system or the real property at which the permitted system is located.

(8) Upon reasonable notice to the permittee, District staff with proper identification shall have permission to enter, inspect, sample and test the permitted system to insure conformity with the plans and specifications approved by the permit.

(9) The permittee shall maintain any permitted system in accordance with the plans submitted to the District.

(10) A permittee's right to conduct a specific noticed activity under this noticed general permit is authorized for a duration of five years.

(11) Construction, alteration, operation, maintenance, removal and abandonment approved by this general permit shall be conducted in a manner which does not cause violations of state water quality standards, including any antidegradation provisions of sections 62-4.242(1)(a) and (b), 62-4.242(2) and (3), and 62-302.300, F.A.C., and any special standards for Outstanding Florida Waters and Outstanding National Resource Waters. The permittee shall implement best management practices for erosion, turbidity, and other pollution control to prevent violation of state water quality standards. Temporary erosion control measures such as sodding, mulching, and seeding shall be implemented and shall be maintained on all erodible ground areas prior to and during construction. Permanent erosion control measures such as sodding and planting of wetland species shall be completed within seven days of any construction activity. Turbidity barriers shall be installed and maintained at all locations where the possibility of transferring suspended solids into wetlands or other surface waters exists due to the permitted activity. Turbidity barriers shall remain in place and shall be maintained in a functional condition at all locations until construction is completed and soils are stabilized and vegetation has been

established. Thereafter the permittee shall be responsible for the removal of the barriers. The permittee shall correct any erosion or shoaling that causes adverse impacts to the water resources.

(12) The permittee shall hold and save the District harmless from any and all damages, claims, or liabilities which may arise by reason of the construction, alteration, operation, maintenance, removal, abandonment or use of any system authorized by the general permit.

(13) The permittee shall immediately notify the District in writing of any previously submitted information that is later discovered to be inaccurate.

Specific Authority 373.044, 373.113, 373.118, F.S. Law Implemented 373.118, 373.413, 373.416, 373.426, F.S. History--New 10-3-95.

Subpart B: No Notice General Environmental Resource Permits

40E-400.315 No Notice General Permit for Activities in Uplands.

(1) A no notice general permit is hereby granted for the construction or alteration of minor systems located entirely within uplands, provided that the proposed system meets all of the following criteria:

- (a) the total project area is less than 10 acres;
- (b) the total project area involves less than 2 acres of impervious surface;
- (c) no activities will impact wetlands or other surface waters;
- (d) no activities are conducted in, on, or over wetlands or other surface waters;
- (e) drainage facilities shall not include pipes with diameters greater than 24 inches or the hydraulic equivalent and shall not utilize pumps in any manner;
- (f) the project is not part of a larger common plan of development or sale

(2) A no notice general permit is hereby granted for the construction or alteration of surface water management systems, provided that the surface water management system meets all of the conditions of subsection (a), below, and all thresholds and conditions of at least one of the subsections (b), (c), or (d), below.

(a) General Conditions

1. The surface water management system design plans must be signed and sealed by a Florida Registered Professional Engineer, if required by Chapter 471, F.S.

2. The surface water management system must meet the criteria specified in Rule 40E-4.301, F.A.C. and applicable local requirements.

3. Except as allowed for in Rule 40E-40.041(7), F.A.C., the project must not be located in natural water bodies, viable wetlands habitat, waters of the state, or a Florida Outstanding Water as listed in Rule 62-302.700, F.A.C.

4. The permittee must have obtained a works of the District permit pursuant to Chapter 40E-6, F.A.C., if the project proposes to connect with, place structures in or across or otherwise make use of works of the District.

(b) Thresholds and Additional Conditions Within Dade County.

1. The project must have less than 40 acres total land area with positive stormwater outfall or less than 320 acres total land area and less than 160 acres of impervious area with no positive stormwater outfall.

2. The project and surface water management system must have been approved by the Dade County Department of Environmental Resource Management or its successor agency subsequent to October 2, 1977.

(c) Thresholds and Additional Conditions Within Palm Beach County.

1. The project must have less than 40 acres total land area.

2. The project and surface water management system must have been approved by Palm Beach County subsequent to October 2, 1977.

(d) Thresholds and Additional Conditions Within Collier County.

1. The project must have less than 40 acres total land area.

2. The project and surface water management system must have been approved by Collier County subsequent to September 17, 1980.

Specific Authority 373.044, 373.113, 373.118, 373.171, 403.813, 403.814 F.S. Law Implemented 373.118, 373.413, 373.416, 373.426, F.S. History--New 10-3-95.

40E-400.316 No Notice General Permit for Road Grading and Pavement Resurfacing.

(1) A no notice general permit is hereby granted for road grading which involves no change in existing road surface elevation and pavement resurfacing of existing roads, provided all of the following criteria is met:

(a) the activity is carried out solely in uplands; and

(b) road grading does not result in the impoundment or interruption of surface waters into wetlands.

Specific Authority 373.044, 373.113, 373.118, F.S. Law Implemented 373.118, 373.413, 373.416, 373.426, F.S. History--New 10-3-95.

Subpart C: Noticed General Environmental Resource Permits

40E-400.417 General Permit for Construction, Alteration or Maintenance of Boat Ramps and Associated Accessory Docks.

(1) A general permit is hereby granted to any person for construction, alteration or maintenance of a boat ramp and the associated accessory docks, provided:

(a) the boat ramp is not exempt from permitting pursuant to section 403.813(2)(c), F.S., or Rule 40E-4.051, F.A.C.;

(b) the boat ramp is not part of a larger plan of development proposed by the applicant which requires a standard general or individual environmental resource permit;

(c) the construction of a new boat ramp or the widening of an existing boat ramp which would increase the number of boat launching lanes does not occur in waters that are accessible to manatees in the following counties: Broward, Charlotte, Collier, Dade, Lee, Martin, Palm Beach, or St. Lucie, excluding the portions of those waters that are upstream of water control structures that preclude the passage of manatees, and inland waterbodies with no connection to coastal waters; however, the limiting provisions of this paragraph shall not apply to the construction of a new boat ramp at a single family residence when the residence is not part of a larger plan of development proposed by the applicant;

(d) no ramp or accessory dock shall be constructed under this general permit unless navigational access exists to the ramp and accessory docks which provides a minimum depth of

two feet below the mean low water level in tidal waters or two feet below the mean annual low water level in non-tidal waters;

(e) there shall be no filling of wetlands or other surface waters, other than the actual boat ramp surface, incidental filling associated with recontouring the land under the ramp to create a level grade, and pilings for associated accessory docks; (f) ramps constructed or altered under this general permit shall not exceed a width of 35 feet, including the side slopes. State agencies, counties, municipalities and water management districts established pursuant to subsection 373.019(2), F.S., are authorized to construct or alter a ramp or to widen an existing ramp which does not exceed 50 feet in width;

(g) the construction, alteration or use of the boat ramp and accessory docks shall not significantly impede navigability in the water body;

(h) the above-water portion of the ramp is landward of the mean high water line (for tidal waters) or the ordinary high water line (for non-tidal waters);

(i) dredging shall be limited to that amount of material necessary to construct the boat ramp surface or restore the ramp to its original configuration and dimension, and the amount of dredged material shall be less than 100 cubic yards;

(j) all spoil material that results from activities authorized by this general permit shall be deposited in an upland spoil site which shall be designed and located to prevent the escape of spoil material into wetlands or other surface waters such that state water quality standards are not violated;

(k) a maximum of two accessory docks, abutting either one or both sides of the boat ramp shall be authorized, and the total square footage of the accessory docks shall be less than 500 square feet over wetlands or other surface waters. State agencies, counties, municipalities and water management districts established pursuant to subsection 373.019(2), F.S., are authorized to construct or alter accessory docks such that the total area of the accessory docks over wetlands or other surface waters does not exceed 1000 square feet and the accessory docks are not more than six feet wide;

(l) there shall be no dredging or filling of submerged grassbeds, or coral communities;

(m) no part of the accessory docks shall be located over submerged grassbeds or coral communities;

(n) the accessory docks shall not be used for overnight mooring, except for accessory docks at a boat ramp at a single family residence;

(2) The construction or alteration of a boat ramp or accessory dock does not obligate the District to approve any subsequent request to dredge for navigational access.

Specific Authority 373.044, 373.113, 373.118, F.S. Law Implemented 373.118, 373.413, 373.416, 373.426, F.S.

History--New 10-3-95.

40E-400.427 General Permit for Certain Piers and Associated Structures.

(1) A general permit is hereby granted to any person to construct, extend, or remove piers and associated structures as described below:

(a) single-family piers along with boat lifts, boat houses, terminal platforms, and gazebos attached to the pier, where these structures:

1. do not accommodate the mooring of more than two water craft;

2. do not, together with existing structures, exceed a total area of 2,000 square feet; and

3. have a minimum depth of two feet below the mean low water level for tidal waters and two feet below the mean annual low water level for non-tidal waters for all areas designed for boat mooring and navigational access, and;

(b) public fishing piers that do not exceed a total area of 2,000 sq. ft. provided the structure is designed and built to discourage boat mooring by elevating the fishing pier to a minimum height of 5 ft. above mean high water or ordinary high water, surrounding the pier with handrails, and installing and maintaining signs that state "No Boat Mooring Allowed".

(2) This general permit shall be subject to the following specific conditions:

(a) construction or extension of the boat house, boat shelter, boat lift, gazebo, or terminal platforms, shall not occur over submerged grassbeds, coral communities, or wetlands. In addition, the boat mooring location shall not be over submerged grassbeds, coral communities, or wetlands. However, the access walkway portion of the pier may traverse these resources provided it is elevated a minimum of 5 feet above mean high water or ordinary high water, contains handrails that are maintained in such a manner as to prevent use of the access walkways for boat mooring or access, and does not exceed a width of 6 feet, or a width of 4 feet in Aquatic Preserves;

(b) there shall be no wet bars or living quarters over wetlands or other surface waters or on the pier, and no structure authorized by this general permit shall be enclosed by walls or doors;

(c) the structure and its use shall not significantly impede navigability in the water body.

(d) there shall be no dredging or filling associated with construction of the structures authorized herein, other than that required for installation of the actual pilings for the pier, boat lift, boat shelter, gazebo, or terminal platform;

(e) there shall be no fish cleaning facilities, boat repair facilities or equipment, or fueling facilities on the structures authorized by this general permit. In addition, no overboard discharges of trash, human or animal waste, or fuel shall occur from any structures authorized by this general permit;

(f) this general permit shall not authorize the construction of more than one pier per parcel of land or individual lot. For the purposes of this general permit, multi-family living complexes shall be treated as one parcel of property regardless of the legal division of ownership or control of the associated property.

Specific Authority 373.044, 373.113, 373.118, F.S. Law Implemented 373.118, 373.413, 373.416, 373.426, F.S.
History--New 10-3-95.

40E-400.431 General Permit for Installation of Riprap.

(1) A general permit is hereby granted to any person installing riprap at the toe of an existing vertical seawall, provided:

(a) the riprap consists only of natural boulders or clean concrete rubble one to three feet in diameter in average dimensions;

(b) the slope of the riprap is no steeper than 2 horizontal to 1 vertical and the horizontal distance from the toe of the seawall is no more than 8 feet;

- (c) there are no reinforcing rods or other similar protrusions in concrete rubble and all rubble or boulders are free of attached sediments;
 - (d) neither the distance nor the use of the riprap shall interfere with navigation;
 - (e) there is no filling or dredging associated with the placement of riprap other than the riprap material itself;
 - (f) there shall be no filling of submerged grassbeds;
 - (g) the amount of wetland area filled shall not exceed 100 square feet; and
 - (h) there shall be no filling of coral communities.
- (2) This general permit shall be subject to the following specific conditions:
- (a) installation of the structure does not obligate the District to approve any subsequent request to dredge for navigational access;
 - (b) there shall be no backfilling to obtain useable upland or to straighten an otherwise sinuous shoreline; and
 - (c) there shall be no filling or backfilling to reclaim land lost by avulsion or erosion.

Specific Authority 373.044, 373.113, 373.118, F.S. Law Implemented 373.118, 373.413, 373.416, 373.426, F.S.
History--New 10-3-95.

40E-400.437 General Permit for the Installation of Fences. A general permit is hereby granted to any person installing a fence in wetlands or other surface waters, except in Outstanding Florida Waters, Outstanding National Resource Waters, Aquatic Preserves, Class II waters, or waters approved, conditionally approved, restricted, or conditionally restricted by the department for shellfish harvesting, provided:

- (1) the structure shall not block navigation, create a navigational hazard, impede the natural flow of water by itself or through the accumulation of debris;
- (2) no fence shall be installed into open waters (areas of water bodies not supporting emergent vegetation) of any navigable river, stream, canal, or tributary thereof, a distance of more than 25 feet or more than twenty percent of the width of the open water, whichever is less, and no fence shall extend more than 15 feet waterward of the landward extent of any lake, including contiguous wetlands;
- (3) the fence will be constructed of wire attached to posts which project at least 2 feet above the mean annual flood or ordinary high water elevation of the waterway;
- (4) in navigable waters and all lakes, the structure shall be adequately marked with reflectors visible from both directions paralleling the shoreline; and
- (5) dredging or filling performed shall be limited to that necessary to install individual fence posts.

Specific Authority 373.044, 373.113, 373.118, F.S. Law Implemented 373.118, 373.413, 373.416, 373.426, F.S.
History--New 10-3-95.

40E-400.439 General Permit for the Construction or Maintenance of Culverted Driveways or Roadway Crossings and Bridges of Artificial Waterways.

- (1) A general permit is hereby granted to any person for the purpose of constructing or maintaining a driveway, roadway or bridge which crosses an artificial waterway provided:
 - (a) this general permit shall apply only to wholly artificial, non-navigable drainage conveyances;
 - (b) a culvert or culverts shall be placed under the roadway or driveway;

(c) the size and number of the culvert(s) shall be adequate to pass normal high water stages of the artificial water body being crossed. In no instance shall the culvert(s) provide a smaller cross-sectional area or discharge capacity than any upstream culvert;

(d) the elevation of the culvert invert shall be at the existing bottom grade of the artificial waterway;

(e) the length of the driveway, roadway or bridge crossing the waterway shall not exceed 50 feet top of bank to top of bank; (f) the top width of the driveway, roadway, or bridge shall not exceed 75 feet, the toe to toe width shall not exceed 100 feet and the side slopes shall not be steeper than 2 horizontal to 1 vertical;

(g) clean fill used for the crossing must be obtained from uplands or from a dredge site which is in compliance with the permitting requirement of chapters 40E-4 and 40E-40, F.A.C., as applicable;

(h) there shall be no additional dredging, filling, or construction activities, except as exempted from regulation under Part IV, Chapter 373, F.S., and those directly involved in the construction or maintenance of the proposed crossing or bridge; and

(i) the maintenance of the roadway, driveway or bridge shall continue to provide at least the same volume of discharge through the culvert(s).

(2) This general permit shall be subject to the following specific conditions:

(a) The permittee shall stabilize fill areas and waterway banks disturbed by the activity by revegetation or riprap within 72 hours of completion of construction to prevent erosion, siltation or turbid runoff into wetlands and other surface waters.

(b) If dewatering is performed, all temporary fill dikes and dewatering discharges shall be installed and constructed so that no upstream flooding or impoundment occurs and no siltation, erosion or turbid discharges into wetlands or other surface waters occur in violation of state water quality standards. Any temporary works shall be completely removed and all areas upstream and downstream from the crossing shall be restored to grades, elevations and conditions which existed before construction.

(3) This general permit shall apply only to a maximum of two crossings on a given parcel of property with a minimum distance of 500 feet between crossings. Maintenance shall be allowed at any and all existing structures meeting the specifications of this general permit.

(4) This general permit shall not apply if:

(a) Relocation of all or part of the artificial waterway is required, or

(b) Dredging or filling activities are required, other than for the proposed culvert crossing, except as exempted from regulation under Part IV, Chapter 373, F.S.

(5) This general permit does not authorize any road construction or alteration connecting to a crossing authorized by this general permit.

Specific Authority 373.044, 373.113, 373.118, F.S. Law Implemented 373.118, 373.413, 373.416, 373.426, F.S.

History--New 10-3-95.

40E-400.443 General Permit to the Florida Department of Transportation, Counties and Municipalities for Minor Bridge Alteration, Replacement, Maintenance and Operation.

(1) A general permit is hereby granted to the Florida Department of Transportation, Counties and Municipalities to conduct the activities described below:

(a) The replacement or modification of bridges and approaches where the combined total of dredging and filling, both temporary and permanent, in wetlands and other surface waters does not exceed 0.5 acre.

(b) Channel clearing and shaping, not to exceed a combined total of 0.5 acres of dredging and filling in wetlands and other surface waters, to facilitate maximum hydraulic efficiency of the structures detailed in paragraph (a) above, where the spoil material is used on an upland portion of the project or is deposited on a self-contained, upland spoil site. Escape of spoil material or return water from the spoil deposition area into wetlands or other surface waters is prohibited.

(2) This general permit shall be subject to the following specific conditions:

(a) in addition to compliance with the notice provisions of section 40E-400.211, F.A.C., within 90 days following completion of construction, the permittee will notify by letter the appropriate District Service Center of the date construction activities were completed;

(b) no dredging of access or work channels are authorized by this general permit;

(c) temporary fill roads shall not be constructed waterward of mean high water or ordinary high water;

(d) all fill placed in wetlands, other than fill on which a bridge or approach described in paragraph (1)(a) is constructed, shall be regraded to the original elevations and these filled wetland areas revegetated with native wetland species endemic to adjoining, undisturbed wetlands, within seven days of completion of construction. Within "clear zones", as described in Chapter 3, Roadside Design Guide (American Association of State Highway and Transportation Officials, October 1988), incorporated by reference in Rule 40E-4.091, F.A.C., revegetation shall be with native herbaceous species endemic to adjoining, undisturbed wetlands. These wetland areas shall be maintained, and planted as necessary, to ensure that satisfactory revegetation occurs. For the purposes of this general permit, "satisfactory revegetation" means that the herbaceous wetlands, and forested wetlands within clear zones that are disturbed by fill shall have achieved not less than 33 percent cover of planted or naturally reestablished herbaceous wetlands within 18 months of completion of construction, and the forested wetlands, other than forested wetlands in clear zones that are disturbed by fill shall achieve a survival rate of not less than 400 wetland trees per acre within 18 months of completion of construction. A maintenance plan must be developed and implemented to ensure the survival of the planted or naturally reestablishing wetland species. Within the revegetated wetland areas, non-native vegetation must be controlled such that it does not constitute more than 10 percent of the areal cover in any stratum at any time for the five year period following the initial planting or restoration of the site;

(e) hydraulic openings of bridges constructed under (1)(a) above shall be sufficient to prevent downstream scour, increased downstream water velocities, and increased backwater elevations on the property of others;

(f) minimum horizontal and vertical navigational clearances on bridges over navigable waters of the United States shall be established in accordance with procedures outlined in the U.S. Coast Guard Bridge Administration Manual, COMDTINST M16590.5, May 7, 1982;

(g) horizontal and vertical clearances for replacement bridge structures shall meet or exceed those of the bridge being replaced;

(h) temporary erosion controls for all exposed soils within wetlands and other surface waters shall be completed within seven calendar days of the most recent construction activity;

(i) the fill areas and the banks of the water body shall be stabilized with vegetation or riprap as soon as possible following completion of slope construction. This stabilization is considered a construction priority and completed fill slopes in wetlands and other surface waters shall not remain unstabilized while other construction continues;

(j) this general permit does not authorize the use of dredged material for roadway construction;

(k) the permittee shall use erosion and sediment control best management practices, in strict compliance with the guidelines and specifications described in Chapter 6 of the Florida Land Development Manual: A Guide to Sound Land and Water Management (Florida Department of Environmental Regulation, 1988), incorporated by reference in Rule 40E-4.091, F.A.C., to prevent violations of state water quality standards;

(l) this general permit authorizes dredging and filling for the replacement or modification of a bridge and approaches for a specific crossing of a wetland or other surface water. Any connecting road expansion or alteration associated with such replacement or modification must be authorized by a separate general or individual permit under chapter 40E-4, 40E-40, or 40E-400, F.A.C., as applicable, before the start of construction; and (m) this general permit does not authorize replacement or modification of bridges or approaches which involve the construction of additional traffic lanes.

Specific Authority 373.044, 373.113, 373.118, F.S. Law Implemented 373.118, 373.413, 373.416, 373.426, F.S.
History--New 10-3-95.

40E-400.447 General Permit to the Florida Department of Transportation, Counties and Municipalities for Minor Activities Within Existing FDOT Rights-of-Way or Easements.

(1) A general permit is hereby granted to the Florida Department of Transportation, Municipalities and Counties to conduct the activities described below:

(a) The extension of existing culverts and crossing approaches to accommodate widening of the roadway where excavation or deposition of material shall not exceed 1000 cubic yards in wetlands and other surface waters and the area from which material is excavated or to which material is deposited shall not exceed a total of 0.25 acres at any one location (project site). The 1000 cubic yardage limitation shall be separately applied to excavation and deposition of material.

(b) Relocation, recontouring, widening, or reconstruction of existing highway drainage ditches through uplands provided the floor elevation of the ditch is not deepened below the original design elevation and provided that the work does not cause a change in the hydrology of any wetlands which are connected to or which are adjacent to the ditch.

(c) Culvert placement, replacement and maintenance associated with existing roadways, in streams with an average discharge of less than 10 cubic feet per second at the culvert location or streams draining less than 10 square miles, provided that construction does not cause scour in the downstream waters or increase the velocity of the water downstream, does not reduce existing flood conveyance of the stream for the 100 year flood flow and does not reduce existing flood storage within the 10 year flood plain. The material excavated or deposited as fill shall not exceed 1000 cubic yards in wetlands and other surface waters. The cross sectional area of the culvert shall not be reduced unless the reduced cross section provides for an equal or

greater discharge capability. In the case of a culvert installed as a wildlife crossing, the cross-sectional area shall not be reduced.

(d) Construction of temporary bypass lanes and stream channel diversions necessary to complete projects detailed in paragraph (c) above, provided the area used for the temporary bypass lanes and temporary diversion is restored to its previous contours and elevations.

(e) Channel clearing and shaping, not to exceed a combined total of 0.5 acres of dredging and filling in wetlands and other surface waters, to facilitate maximum hydraulic efficiency of structures authorized by paragraph (c) above, where the spoil material is used on an upland portion of the project or is deposited on a self-contained, upland spoil site. Escape of spoil material or return water from the spoil deposition area into wetlands or other surface waters is prohibited.

(f) Repair of existing concrete bridge pilings by the construction of pile jackets, provided that the permanent outer form is composed of inert materials and the quantity of material shall not exceed 300 cubic yards of dredging or 300 cubic yards of filling per project. Although the bottom sediments within the forms may be removed by jetting or pumping, and may not be recoverable, proper turbidity control measures shall be employed as necessary to prevent violations of state water quality standards.

(2) This general permit shall be subject to the following specific conditions:

(a) The permittee shall use erosion and sediment control best management practices in strict compliance to with the guidelines and specifications described in Chapter 6 of the Florida Land Development Manual: A Guide to Sound Land and Water Management (Florida Department of Environmental Regulation 1988), incorporated by reference in Rule 40E-4.091, F.A.C., to prevent violation of state water quality standards.

(b) Immediately following completion of slope construction, the fill areas and any disturbed banks of wetlands or other surface waters shall be stabilized with vegetation or riprap to prevent erosion. Temporary erosion controls for all exposed soils within wetlands and other surface waters shall be completed within seven calendar days of the most recent construction activity. Prevention of erosion of exposed earth into wetlands and other surface waters is a construction priority and completed slopes shall not remain unstabilized while other construction continues.

(c) In addition to complying with the notice provisions of section 40E-400.211, F.A.C., at least 90 days prior to commencement of construction, the permittee shall provide written notification to the appropriate District Service Center of the date the permitted construction activities are planned to begin and within 90 days following completion of construction the permittee shall provide written notification to the appropriate District Service Center of the date construction activities are completed.

(d) The permittee shall limit stream channel relocation to streams which have an average annual discharge of 10 cubic feet per second or less. The length of relocated channels or those significantly altered shall be limited to 200 feet per stream. A stream channel shall be altered only when such a measure will reduce the long term adverse water quality impacts and will maintain or restore the stream's natural hydraulic capability.

(e) This general permit shall not apply to ditch construction in Class I or Class II surface waters, Outstanding National Resource Waters or waters designated as Outstanding Florida Waters.

(3) This general permit does not authorize the construction of additional traffic lanes. Systems which require additional traffic lanes must first obtain a general or individual environmental resource permit under chapters 40E-4 and 40E-40, F.A.C., as applicable, before the start of construction.

Specific Authority 373.044, 373.113, 373.118, F.S. Law Implemented 373.118, 373.413, 373.416, 373.426, F.S.
History--New 10-3-95.

40E-400.453 General Permit for the Installation, Maintenance, Repair or Removal of Underground Cables, Conduits, or Pipelines.

(1) A general permit is hereby granted for the installation, maintenance, repair or removal of underground cables, conduits or pipelines that transmit electricity, communication signals, potable water, raw water, reclaimed water, domestic wastewater, propane gas or natural gas.

(2) This general permit is subject to the following special conditions:

(a) the maximum width of the disturbed corridor in wetlands shall not exceed 30 feet. The maximum width of the excavated trench shall not exceed eight feet, with temporary spoil storage banks not to exceed ten feet in width;

(b) the total area of wetland disturbance shall not exceed 0.5 acres of forested wetlands per ten miles of cable, conduit, or pipeline;

(c) for a trench with a top width greater than three feet wide in herbaceous wetlands, the upper layer of the soil horizon shall initially be scraped and segregated into a spoil bank that is separated from the spoil bank resulting from the excavation of the trench for the utility line. The upper layer of the soil horizon shall be replaced as the last step of restored grades to facilitate natural revegetation;

(d) maintenance trimming or removal of trees in wetlands will be conducted only within the impacted areas authorized under this general permit and only as necessary to perform repairs on the cable, conduit, or pipeline;

(e) this general permit does not authorize construction in surface waters other than wetlands;

(f) there shall be no net placement of permanent fill resulting from the activities authorized by this general permit;

(g) there shall be no dredging or filling in wetlands to access the work areas authorized by this general permit, except for temporary mats. All temporary mats shall be removed within thirty days after completion of the installation of the line within the wetland portion of the project;

(h) the works authorized by this general permit shall not impede the flow of water in wetlands or other surface waters, except for a maximum period of 30 days during construction, provided that the impeded flow does not cause flooding and shall not adversely affect the wetlands or other surface waters;

(i) temporary spoil banks shall contain breaches that prevent impoundment or restriction of surface water flows;

(j) this general permit does not authorize the installation of conduits for draining wetlands or other surface waters;

(k) pre-construction ground elevations and the contours of all disturbed soils, including vehicle ruts in wetlands and other surface waters, shall be restored within 30 days of completion of line installation. Restored grades shall be stabilized within 72 hours following completion of elevation and contour restoration to minimize erosion;

(l) vehicle usage in wetlands and other surface waters shall be conducted so as to minimize tire rutting and erosion impacts;

(m) for purposes of this general permit, vehicular access in wetlands and other surface waters shall be limited to existing roads, trails, rights-of-way or easements, and to other previously disturbed corridors where they exist;

(n) this general permit shall not apply in Outstanding Florida Waters, Outstanding National Resource Waters, Aquatic Preserves, or Class I waters; and

(o) during the initial clearing event and when conducting subsequent normal maintenance activities, the permittee shall eradicate all Brazilian pepper (*Schinus terebinthifolius*), Australian pine (*Casuarina* spp.), and Melaleuca (*Melaleuca quinquenervia*) from the wetland portions of the utility right of way.

Specific Authority 373.044, 373.113, 373.118, F.S. Law Implemented 373.118, 373.413, 373.416, 373.426, F.S.

History--New 10-3-95.

40E-400.455 General Permit for the Construction of Aerial Pipeline, Cable, or Conduit Crossings of Certain Waters.

(1) A general permit is hereby granted to any person constructing an aerial pipeline, cable, or conduit crossing of artificial waterways (including man-made canals and drainage ditches as defined in Section 403.803, F.S.), and natural water bodies, where the width of such waterways or waterbodies is no greater than 25 feet; provided:

(a) the crossing is not located in Outstanding Florida Waters, Outstanding National Resource Waters, Aquatic Preserves, Class I waters, Class II waters, or waters approved, conditionally approved, restricted or conditionally restricted by the department for shellfish harvesting. For the purposes of this section, aerial pipeline, cable or conduit crossings include pipelines, cables and conduits transporting the following materials: potable water, raw non-wastewater, including well water and reservoir water, reclaimed water, domestic wastewater, phosphate matrix slurry, phosphatic clay or sand tailings, recirculated water from beneficiation processes, electrical power cables and conduits that are not subject to the provisions of Sections 403.52-403.539, F.S., and telephone and other electronic communication cables and conduits;

(b) there shall be a minimum clearance of five feet between the pipeline, cable or conduit and the elevation of the mean or ordinary high water line, and no pipeline, cable or conduit shall be lower than existing pipeline, cable or conduit structures in the area;

(c) the structure shall not create a navigational hazard or impede the natural flow of water;

(d) dredging shall be restricted to that quantity necessary for actual installation of the support piles, and no fill other than the support piles shall be placed within wetlands or other surface waters. Any disturbance of the side slopes of the waterway shall be stabilized with native vegetation;

(e) work activities for the installation of the aerial crossing shall be restricted to a width of no more than thirty (30) feet on each side of the crossing alignment. In cases where

multiple pipes, cables or conduits are to be installed along the same alignment the thirty (30) foot width shall commence from the outermost pipes, cables or conduits. For the purposes of this general permit, no more than three pipes shall be placed along a given alignment, and in no case shall the total disturbance area exceed 75 feet in width; and

(f) construction techniques necessary for the installation of the aerial pipeline, cable, or conduit, including the transport and placement of materials, shall not disturb the adjacent bottoms of the waterbody or adversely affect water quality.

(2) This general permit shall be subject to the following specific conditions:

(a) Any pipeline or conduit transporting authorized materials, other than potable water or raw non-wastewater, shall be subject to the following spill prevention design criteria:

1. double piping (pipe within a pipe) constructed in such a manner that any leakage from the inside pipe into the outside pipe shall be conveyed to spill detention areas constructed in areas outside of wetlands or other surface waters; and

2. pressure sensitive devices designed to detect any leak shall be installed proximal to the aerial crossing and shall be designed to allow both visual and audible detection.

(b) The District shall be notified within 24 hours of any leak or failure of any of the pipes associated with the aerial crossing.

Specific Authority 373.044, 373.113, 373.118, F.S. Law Implemented 373.118, 373.413, 373.416, 373.426, F.S.

History--New 10-3-95.

40E-400.457 General Permit for Subaqueous Utility Crossings of Artificial Waterways.

(1) A general permit is hereby granted to any person constructing, repairing or replacing a subaqueous utility crossing of artificial waterways (which are defined for purposes of this rule as residential canal systems and all other bodies of water that have been totally excavated from uplands and which do not overlap wetlands or other surface waters at the location of the crossing and which were not created as a part of a mitigation plan) provided:

(a) the work is not located in Outstanding Florida Waters, Aquatic Preserves, Outstanding National Resource Waters, Class I waters, Class II waters or waters approved, conditionally approved, restricted, or conditionally restricted by the Department for shellfish harvesting;

(b) such construction shall be limited only to non-navigable watercourses or to those waterways in which navigation can be maintained at all times without the necessity of removing or relocating turbidity control devices to allow boat passage;

(c) no dredging or filling shall be conducted in wetlands or other surface waters, which are located landward of the top of the banks of an artificial waterway. Dredging and back filling of littoral zones and wetland vegetation growing on the side slopes of the artificial waterway may be performed only as is reasonably necessary to install the subaqueous utility line crossing and restore the banks to their original design specifications;

(d) there shall be no dewatering or construction of temporary berms or dikes;

(e) the maximum length of the utility crossing shall not exceed 150 feet from top of bank to top of bank. Excavated trench dimensions shall be limited to a depth of not more than 10 feet below existing bottom contours and a trench top width of not more than 10 feet;

(f) the maximum width of the area disturbed by equipment during construction shall be no more than 30 feet wide;

(g) all previously excavated contours are restored with on site native backfill, coarse sand, or clean, non-toxic rock bedding or cap material, as appropriate, within 72 hours following installation of the utility line;

(h) this general permit shall only authorize utility installations extending from bank to opposite bank on a particular waterway. The placement of utility lines paralleling the watercourse alignment is not authorized; and

(i) placement of the utility line shall not result in a navigational hazard. Customary navigation through the waterway shall be maintained at all times during installation.

(2) This general permit shall be subject to the following specific conditions:

(a) Measures shall be taken to prevent violations of state water quality standards during and after construction arising from the work, such as the use of turbidity curtains, staked filter cloth, and staked hay bales. Where turbidity curtains, filter cloth, hay bales, and similar structural measures are not sufficient to contain turbid runoff, additional measures, such as restricting work to periods of low flow and dry season months, shall be taken to ensure that construction can be performed in a manner which will not violate water quality standards; and

(b) All erodible ground areas and slopes disturbed during construction shall be revegetated with sod, mulch, seed, or wetland species or otherwise stabilized within 72 hours after installation of the utility line and at any other time as necessary to prevent violations of state water quality standards in wetlands or other surface waters;

(c) Temporary or permanent spoil disposal sites shall be located exclusively on uplands and shall be sited or designed to prevent violations of state water quality standards in wetlands or other surface waters;

(d) The utility crossing shall be designed in accordance with generally recognized practices of sound engineering; and

(e) Signs shall be installed and maintained at conspicuous locations to identify the alignment and type of the utility line within wetlands or other surface waters.

(3) For purposes of this section, utility crossings or lines include crossings and lines transporting the following materials: potable water, raw non-wastewater, including well water and reservoir water, domestic wastewater, electric power cables and conduits that are not subject to sections 403.52 - 403.539, F.S., and telephone and other electronic communication cables and conduits.

Specific Authority 373.044, 373.113, 373.118, F.S. Law Implemented 373.118, 373.413, 373.416, 373.426, F.S.

History--New 10-3-95.

40E-400.463 General Permit for the Construction and Operation of Culverts and Associated Water Control Structures in Mosquito Control Impoundments by Governmental Mosquito Control Agencies.

(1) A general permit is hereby granted to any governmental mosquito control agency to construct and operate culverts and associated water control structures for the control of water levels in mosquito control impoundments, provided:

(a) the construction or operation of the culvert and associated water control structure is done only to provide improved transport of tidal water and organisms between the impounded wetland and adjacent surface waters or between cells within existing mosquito control

impoundments for the purpose of improving water quality and the quality of fish and wildlife values;

(b) this general permit does not authorize the construction or operation of culverts and associated water control structures for the purpose of facilitating aquaculture;

(c) the construction or operation of culverts and associated water control structures is not required as mitigation under Part IV of Chapter 373, F.S.;

(d) access for the construction or operation of the culverts and associated water control structures does not require dredging or filling in wetlands or other surface waters or equipment access through wetlands;

(e) culverts and associated water control structures shall be installed in locations that restore historic flow patterns, such as at or adjacent to historic locations of tidal creeks, and shall be located and operated such that water quality standards for dissolved oxygen shall not be violated in the receiving waters outside the impoundment;

(f) culverts and associated water control structures shall either be left open year-round or shall be only seasonally closed as necessary to control mosquito breeding and to minimize the application of pesticides;

(g) this general permit does not constitute authorization to enter upon the property of others to perform activities authorized by this permit; and

(h) this general permit does not authorize the construction of culverts or water control structures in the locations of existing breaches of the impoundment dike.

(2) This general permit shall be subject to the following specific conditions:

(a) culverts and associated water control structures shall be made of a corrosion resistant material;

(b) the diameter and invert elevation of the culverts and associated water control structures shall be sufficient to maintain flow and prevent scouring under expected hydrologic conditions;

(c) within 72 hours after construction of each culvert and associated water control structure, and at any other time as necessary to prevent erosion, siltation and turbidity that causes violations of state water quality standards in wetlands or other surface waters, the wetlands disturbed by construction shall be stabilized with indigenous wetland vegetation or clean rip rap, and the uplands disturbed by construction shall be stabilized with vegetation, rip rap, or other means.

(3) A copy of the notice to use this general permit shall be sent to the Chairman of the Subcommittee on Managed Marshes which is established under Section 388.46, F.S.

Specific Authority 373.044, 373.113, 373.118, F.S. Law Implemented 373.118, 373.413, 373.416, 373.426, F.S. History--New 10-3-95.

40E-400.467 General Permit for Breaching Mosquito Control Impoundments by Governmental Mosquito Control Agencies.

(1) A general permit is hereby granted to any governmental mosquito control agency to breach mosquito control impoundments, provided:

(a) the work is done only to provide improved transport of tidal water and organisms between the impounded wetland and adjacent surface waters or between cells within existing

mosquito control impoundments for the purpose of improving water quality and the quality of fish and wildlife values;

(b) the construction of the breaches is not required as mitigation under Part IV, Chapter 373, F.S.;

(c) access for the construction of the breaches does not require dredging or filling in wetlands or other surface waters, or equipment access through wetlands;

(d) the breaches shall be installed in locations that restore historic flow patterns, such as at or adjacent to historic locations of tidal creeks, and shall be located so as to prevent violations of the water quality standards for dissolved oxygen in the receiving waters outside the impoundment; and

(e) this general permit does not constitute authorization to enter upon the property of others to perform activities authorized by this permit.

(2) This general permit shall be subject to the following specific conditions:

(a) spoil material excavated during construction of the breaches shall be handled and deposited in such a manner as to prevent violations of the water quality standards for turbidity and shall be contained in an upland disposal site; and

(b) within 72 hours after construction of any breach, and at any other time as necessary to prevent erosion, siltation and turbidity that causes violations of state water quality standards in wetlands or other surface waters, the wetlands disturbed by construction shall be stabilized with indigenous wetland vegetation or clean rip rap, and the uplands disturbed by construction shall be stabilized with vegetation, rip rap, or other means.

(3) A copy of the notice to use this general permit shall be sent to the Chairman of the subcommittee on Managed Marshes which is established under section 388.46, F.S.

Specific Authority 373.044, 373.113, 373.118, F.S. Law Implemented 373.118, 373.413, 373.416, 373.426, F.S. History--New 10-3-95.

40E-400.475 General Permit for Minor Activities.

(1) A general permit is hereby granted for the construction, alteration, maintenance, operation, abandonment and removal of the following minor systems:

(a) piling supported structures of less than 1,000 square feet over wetlands or other surface waters, which are not designated Outstanding Florida Waters;

(b) piling supported structures of less than 500 square feet over wetlands or other surface waters in an Outstanding Florida Water;

(c) dredging or filling of less than 100 square feet of wetlands or other surface waters;

(d) maintenance dredging of 50 cubic yards or less of material from surface waters other than wetlands, provided the dredged material is placed in uplands and turbidity control measures are employed to prevent return water from causing a violation of state water quality standards.

(e) a single family residence that is not part of a larger plan of common development proposed by the applicant, including the associated residential improvements such as a driveway, garage and an onsite sewage disposal system, provided:

1. this paragraph shall not apply to property which was part of a tract of land that was divided into two or more parcels after July 1, 1994;

2. this paragraph shall not apply to construction or alteration in surface waters other than isolated wetlands or any wetlands in an Area of Critical State Concern;

3. dredging and filling of isolated wetlands shall be limited to only those areas required for siting the portions of the residence and associated residential improvements which cannot be sited in uplands because there is an insufficient unrestricted area of uplands within the contiguous ownership of the applicant on which the residence and associated residential improvements can be located. Applicants are encouraged to construct structures that must be located in isolated wetlands on pilings to minimize the area of isolated wetlands filled for the residence and associated residential improvements. On-site sewage disposal systems shall be constructed in uplands unless there is an insufficient unrestricted area of upland within the contiguous ownership of the applicant on which such disposal system can be located. For the purposes of this paragraph, "unrestricted area of uplands" means an area of uplands which is not restricted by easement, deed restriction, local government regulation, or similar restriction which would prevent the activities authorized under this paragraph (e) and which is configured such that all or part of the residence and associated residential improvements can be constructed in the uplands. An area of uplands will only be considered restricted if all available variance or waiver procedures have been exhausted; and

4. the total area of dredging or filling in isolated wetlands for the residence and associated residential improvements shall not exceed 4,000 square feet; and the total area of clearing in wetlands (including the dredging or filling for the residence and associated residential improvements) shall not exceed 6,000 square feet on the contiguous property owned by the applicant.

(2) In order to qualify for this general permit, an applicant must provide reasonable assurance that the proposed system:

(a) does not significantly impede navigation and does not entail the construction of a structure for the launching or mooring of a boat when navigational access to the structure does not currently exist;

(b) does not cause a violation of state water quality standards;

(c) does not impede the conveyance of a stream, river or other watercourse in a manner that would increase off-site flooding;

(d) does not adversely impact aquatic or wetland dependent listed species;

(e) does not cause the drainage of wetlands;

(f) is not located in, on or over a coral community, macro-marine algae or submerged grassbed community. For the purposes of this general permit, macro-marine algae community shall not include algae unattached to the bottom, nor shall it include algae growing landward of the mean high water line or growing as an epiphyte on woody plants.

(3) Persons wishing to qualify for this general permit must file a written request, describing the proposed activities and providing plans and other information necessary to evaluate the potential for adverse impacts from the proposed activities. Any persons proposing a system described in subparagraph (1)(f) above, shall submit tax parcel information or other documentation, sufficient to establish that the property is not part of a tract of land that was divided into two or more parcels after July 1, 1994. The District will provide written notification to the applicant whether the proposed activity qualifies for this general permit within 30 days of

submittal of the written request. The proposed activity may not commence until the District has provided written notice that the applicant qualifies for the general permit.

(4) A determination that an activity qualifies for a General Permit for a minor activity applies only to the site specific activity, location, method of construction or operation of the specific activity and the other design and operation features of the authorized activity.

(5) This general permit shall not be applicable to any parcel of property which has been the subject of the successive filing of notices under this section within a three year period where the combination of activities to be conducted pursuant thereto exceeds the thresholds in subsection 40E-400.475(1), F.A.C.

(6) The provisions of subparagraph (1)(e) do not supersede the exemption set forth in subsection 403.813(2)(q), F.S.

Specific Authority 373.044, 373.113, 373.118, F.S. Law Implemented 373.118, 373.413, 373.416, 373.426, F.S.
History--New 10-3-95.

40E-400.483 General Permit to the Department to Conduct Minor Activities.

(1) A general permit is hereby granted to the Department to conduct the activities described below:

(a) the repair, replacement or alteration of any existing bridge, levee, dam, pump station, lock, culvert, spillway, weir, or any other water control structure with structures of the same design or of a comparable design, provided that the maximum discharge rate capacity and control elevation do not exceed that of the structure to be replaced. Minor deviations in the structure's design are authorized, including those due to changes in materials, construction techniques, or current construction codes or safety standards. Associated construction activities authorized by this permit include temporary fill plugs or cofferdams; upland bypass channels; channel shaping needed to accommodate the repair, replacement, or alteration of the structure; and channel and bank stabilization, including riprap within 200 feet of the structure. Replacement may occur at the same site, or adjacent to the original structure. The area of wetlands or other surface waters from which material is to be dredged or filled shall not exceed a total of 0.5 acres for any one structure;

(b) canal bank and bottom stabilization necessary to repair erosion damage and restore previously existing canal configurations. Authorized repair methods include placement of riprap, sand cement toe walls, clean fill material, poured concrete, geotechnical textiles or other similar stabilization materials. The distance to be restored or repaired shall not exceed 2000 feet at any one location along canal banks and 500 feet along canal bottoms; and

(c) aerial pipeline crossings (including support piles) of man-made canals consistent with the provisions of section 40E-400.455, F.A.C., except that the width of the crossing may be up to 200 feet.

Specific Authority 373.044, 373.113, 373.118, F.S. Law Implemented 373.118, 373.413, 373.416, 373.426, F.S.
History--New 10-3-95.

40E-400.485 General Permit to the Department for Environmental Restoration or Enhancement Activities.

(1) A general permit is hereby granted to the Department for the construction, alteration, operation, maintenance, removal and abandonment of systems to implement Department or District environmental restoration or enhancement projects.

(2) In order to qualify for this general permit, the environmental restoration or enhancement project must comply with any one of the following procedures:

(a) The project is part of a Surface Water Improvement And Management Plan developed pursuant to section 373.453 F.S. that is reviewed by the Department and approved by a Water Management District in accordance with section 373.456, F.S. ; or

(b) The project is approved by the Secretary of the Department after conducting at least one public meeting; or

(c) The project is wholly or partially funded by the Department through the Pollution Recovery Trust Fund pursuant to section 403.165, F.S., or the Water Resources Restoration and Preservation Act pursuant to 403.0165, F.S.

(3) This general permit shall be subject to the following specific conditions:

(a) A project under this general permit shall not significantly impede navigation.

(b) All erodible ground areas and slopes disturbed during construction shall be revegetated with sod, mulch, seed, wetland species, or otherwise appropriately stabilized within 72 hours after completion of the activity authorized under this general permit and at any other time as necessary to prevent violations of state water quality standards.

Specific Authority 373.044, 373.113, 373.118, F.S. Law Implemented 373.118, 373.413, 373.416, 373.426, F.S.

History--New 10-3-95.

40E-400.487 General Permit to the Department to Change Operating Schedules for Department or District Water Control Structures.

(1) A general permit is hereby granted to the Department to change the operating schedules for existing water control structures that are owned or operated by the Department when such changes are for the purpose of environmental restoration or enhancement.

(2) The Department shall hold at least one public meeting concerning the proposed operating schedule prior to its approval.

Specific Authority 373.044, 373.113, 373.118, F.S. Law Implemented 373.118, 373.416, F.S. History--New 10-3-95.

40E-400.495 General Permit to U.S. Forest Service for Minor Works within National Forests. A general permit is hereby granted to the U.S. Forest Service to conduct the works described below:

(1) bathing beach restoration at developed recreation sites where maintenance dredging is less than 100 cubic yards per year and less than 100 cubic yards per single occurrence;

(2) dock construction, replacement and maintenance for docks of up to 1000 square feet of surface area over wetlands and other surface waters, in Outstanding Florida Waters and Outstanding National Resource Waters, subject to restrictions listed in Section 403.813(2)(b) and (d), Florida Statutes.

Specific Authority 373.044, 373.113, 373.118, F.S. Law Implemented 373.118, 373.413, 373.416, 373.426, F.S.

History--New 10-3-95.

40E-400.500 General Permit for Construction, Operation, Maintenance, Alteration, Removal or Abandonment of Minor Silvicultural Surface Water Management Systems.

(1) Subject to the requirements of this section, a general permit is hereby granted to:

(a) any person constructing, operating, maintaining (including repairing or replacing), altering, abandoning, or removing surface water management systems which:

1. are not exempt under sections 40E-4.051, F.A.C.;

2. meet the permit thresholds set forth in section 40E-4.041, F.A.C.;
3. meet the terms and conditions specified in subsections (4), (5) and (6) of this section; and

4. are designed to place the property into silvicultural use or to perpetuate the maintenance of this property in silvicultural use.

(b) the U.S. Forest Service to construct, operate, maintain, alter, abandon, or remove surface water management systems which:

1. are not exempt under section 40E-4.051, F.A.C.;
2. meet the permit thresholds set forth in section 40E-4.041, F.A.C.;
3. meet the terms and conditions specified in subsections (4), (5) and (6) of this section.

(2) No construction, operation, maintenance (including repair or replacement), alteration, abandonment, or removal of the minor silvicultural surface water management system described in subsection (1) of this section, shall commence until a completed Notice of Intent to Construct a Minor Silvicultural System, Form No. 0974, is received by the District or said Notice of Intent is properly addressed and stamped and deposited in the United States mail, in which case the postmark date shall be the date of receipt. Applicants may also submit annual schedules of proposed silvicultural surface water management systems that meet the requirements of this chapter, including completed permit applications for each activity. The construction, operation, maintenance, alteration, abandonment or removal shall only be authorized when the Notice of Intent is received by the District and provided the proposed activity qualifies for the general permit pursuant to this section and the conditions of issuance are followed.

(3) The Notice of Intent to Construct a Minor Silvicultural System shall include the information contained in District Form No. 0974.

(4) This general permit shall be for any of the following minor silvicultural surface water management systems:

(a) A permanent culverted fill road with a road surface of 28 feet or less in width placed in or crossing a stream or other watercourse of less than ten (10) cubic feet per second average discharge at the location of the work or with a drainage area upstream of the work of less than ten (10) square miles. The design of the work must allow for conveyance of normal flows and for overtopping during large storm events, and any fill placed in wetlands associated with the stream or other watercourse must be less than one-half (1/2) acre in area. Under this paragraph, the fill material shall be no more than twenty-four (24) inches above culvert structures. The fill material on the road approaches shall be no more than twenty-four (24) inches above grade, except within an area of one hundred (100) feet from either side of a culvert. The road must be designed with culvert inlets positioned at or below the natural grade of the bed of the stream or other watercourse to prevent the permanent impoundment of water, and to provide an overflow area or areas which will prevent erosion and adverse effects to water levels upstream and downstream of the road.

(b) A temporary culverted fill road or a temporary bridge up to 50 feet long, with a road surface of 28 feet or less in width placed in or crossing a stream or other watercourse of less than ten (10) cubic feet per second average discharge at the location of the work or a drainage area upstream of the work of less than ten (10) square miles. The design of the work must allow for conveyance of existing flow during the period of use and any fill placed in wetlands associated

with the stream or other watercourse must be less than one-half (1/2) acre in area. The work must be designed only to facilitate the temporary movement of equipment and must be removed immediately after the operation for which the crossing was needed is complete or within thirty (30) months of the filing of the Notice of Intent in subsection (3), whichever is sooner.

(c) A permanent bridge up to 100 feet in length and 28 feet or less in width supported on pilings or trestles, placed in or crossing a stream or other watercourse of less than ten (10) cubic feet per second average discharge at the location of the work or with a drainage area upstream of the work of less than ten (10) square miles. The design of the work and associated approach roads, if any, must allow for conveyance of normal flows and for overtopping during large storm events and any fill placed in wetlands associated with the stream or other watercourse must be less than one-half (1/2) acre in area. The height limitation for fill on the bridge approach roads shall be a maximum of twenty-four (24) inches above natural grade.

(d) A permanent culverted fill road or bridge with a road surface of 28 feet or less in width, placed in or crossing a wetland or other impoundment, excluding reservoirs created by dams, where the road surface area over the wetland or other impoundment is less than one half (1/2) acre. Such crossings are not authorized when the landowner can construct a road which avoids filling in wetlands. Such crossings must be located in a manner which minimize the area of wetlands being filled. Fill material for crossings of isolated wetlands or other isolated impoundments may be excavated from the wetland being crossed, provided that all excavation takes place immediately adjacent to the road surface and that the excavated area consists only of narrow trenches which are not connected to ditches constructed or maintained for drainage purposes. In addition, such excavations shall not result in drainage from the wetland.

(e) Temporary stream channel diversions necessary to complete the works described in paragraphs 4(a), (b), or (c) above, provided that the area used for the temporary diversion is restored to its previous contours and elevations.

(f) Clearing and snagging in a stream or other watercourse within fifty (50) feet of the center line of a culverted fill road or a bridge described in paragraphs 4(a), (b), or (c) above, necessary to construct said work.

(g) A permanent low water, hard surfaced crossing in a stream, other watercourse, wetland or other impoundment consisting of the placement of rock or similar material no more than twelve (12) inches higher than the bed of the stream, other watercourse or impoundment. Such crossings must be designed only to facilitate the movement of equipment by creating a stable foundation in shallow streams, other watercourses, wetlands or other impoundments. Temporary low water, hard surfaced crossings may be constructed using logs, but must be removed immediately following the completion of the silvicultural operation or within thirty (30) months of the filing of the Notice of Intent in subsection (3), whichever is sooner.

(h) Upland field ditches of a temporary nature to facilitate only harvesting, site preparation, and planting, with a maximum cross-sectional area of eighteen (18) square feet spaced no closer than six hundred and sixty (660) feet from any other parallel ditch. After seedling establishment, the ditches shall be allowed to revegetate naturally. The permittee will not be required to fill field ditches after seedling establishment.

(i) Above grade, unpaved, upland silvicultural roads with an average road surface width of twenty-eight (28) feet or less within a construction corridor up to fifty (50) feet in width. These roads must also incorporate sufficient culverts at grade to prevent alteration of natural sheet

flow and may have associated borrow ditches. Road ditches shall be constructed only to obtain road material for the associated road and to provide only enough storage to maintain a dry road surface. Such road ditches must not provide drainage to the tract adjoining the road, other than to provide drainage of the road surface and minor, incidental drainage of abutting lands. These road ditches may be connected to other roadside ditches that were constructed pursuant to this section but must not connect directly or indirectly to any works on-site or off-site which are designed or constructed to provide drainage or conveyance. Road ditches must be separated from wetlands and other surface waters by a buffer strip of indigenous ground cover and a water turnout prior to said buffer strip. However, road ditches may discharge directly to a wetland when the slope of the uplands within 1000 feet of the edge of the wetland is equal to or less than two (2) percent, provided the ditch does not result in drainage of the wetland and provided that the ditch does not create a hydrologic connection between two or more wetlands. The width of the buffer strip shall be no less than 35 feet, or 50 feet when located adjacent to an Outstanding Florida Water, an Outstanding National Resource Water, or Class I waters.

(j) Upland borrow areas needed to obtain fill material for crossings authorized by this noticed general permit of streams, other watercourses, wetlands and other impoundments. These upland areas must not provide drainage and must not be hydrologically connected to roadside ditches or field ditches.

(5) In order to qualify for this general permit, the systems identified in subsection (4) of this section must meet the following performance standards:

(a) Except for those areas to be filled for crossings as provided in this section, the proposed activities must not convert wetlands or other surface waters to uplands.

(b) A road or bridge must be designed to convey normal water flow while being adequately stabilized to allow for overtopping during storm events without washing out.

(c) A permanent road or bridge placed in or crossing a stream, other watercourse, wetland or other impoundment may be placed no closer than one half (1/2) mile from any traversing work which traverses the same stream, other watercourse, wetland or impoundment. A low water crossing or temporary road or bridge placed in or crossing a stream, other watercourse, wetland or other impoundment may be placed no closer than one quarter (1/4) mile from any traversing work which traverses the same stream, other watercourse, wetland, or other impoundment. The spacing limitation shall be measured along the stream, other water course, wetland or other impoundment. Notwithstanding the spacing limitation in this paragraph, at least one low water crossing, road or bridge crossing of any stream, other watercourse, wetland or other impoundment may be constructed to each upland area being managed for silviculture that would not otherwise be accessible if these spacing limitations were met.

(d) A low water crossing, road, or bridge placed in or crossing a stream, other watercourse or impoundment must not cause increased velocities downstream of the work that would cause scour outside of the area of clearing and snagging described in paragraph (4)(e) above.

(e) A low water crossing, road, or bridge placed in or crossing a stream, other watercourse or impoundment must not cause increased flooding on property not owned by the permittee.

(f) Erosion control measures must be undertaken to limit the transfer of suspended solids into the receiving waterbody during and after construction of the proposed work. After

removing any temporary crossing, disturbed portions of the stream bank and stream channel shall be restored to approximate their original shape and flow capacity. Erodible ground area associated with the crossing shall be stabilized with rip rap, mulch or seeded for appropriate ground cover vegetation within 72 hours after removal.

(g) Upland field ditches may connect only to works which are permitted by the District or are exempt from permitting by the District and only if the connection will not cause the work to exceed its conveyance capacity or to increase flooding on property now owned by the permittee; however, this section does not authorize connection to works without the consent of the owner of the work. Field ditches will be presumed to meet the erosion control requirements of subparagraph (5)(f), above when they are separated from streams, other watercourses, wetlands or other impoundments by a buffer strip of undisturbed vegetation and provided the integrity of this buffer is maintained. The width of the buffer strip shall be the width of the total Special Management Zone (primary zone and secondary zone) as described in the "Silviculture Best Management Practices Manual" referenced in paragraph (h). However, field ditches may discharge directly to a wetland when the slope of the uplands within 1000 feet of the edge of the wetland is equal to or less than two (2) percent, provided the ditch does not result in drainage of the wetland and provided that the ditch does not create a hydrologic connection between two or more wetlands.

(h) In addition to the performance standards set forth in (a)-(g) above, the applicant, in undertaking the activities authorized herein, must utilize the best management practices set forth in "Silviculture Best Management Practices Manual" (1993) published by the Division of Forestry, Florida Department of Agriculture and Consumer Services.

(i) If climatic or flow conditions prevent the removal of a temporary crossing within the time frame specified in this section, the applicant may submit another Notice of Intent to extend the time periods for removal and restoration of the temporary crossing. The applicant must provide a written explanation and evidence supporting the need to reauthorize the crossing and must specify the additional time needed to remove the crossing, which may not exceed one year.

(6) The duration of the general permit authorized in this section is:

(a) For construction, alteration, abandonment, or removal of the silvicultural surface water management system: one (1) year to complete the permitted activity;

(b) For operation or maintenance of the silvicultural surface water management system: permanent.

Specific Authority 373.044, 373.113, 373.118, F.S. Law Implemented 373.118, 373.413, 373.416, 373.426, F.S.
History--New 10-3-95.

40E-400.900 Forms and Instructions.

(1) Forms and instructions are set forth in Rule 40E-1.659, F.A.C., and are incorporated by reference in this rule.

Specific Authority 373.044, 373.113, 373.118, F.S. Law Implemented 373.118, 373.413, 373.416, 373.426, F.S.
History--New 10-3-95.